

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Holders of the Maine Public Assistance Manual

FROM: Dale Denno, Director, Office for Family Independence

DATE: August 28, 2012

SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL CH 331, Proposed Policy #90P
Table of Contents, Introduction, Chapter II Eligibility Requirements (Non-Financial)—“Citizenship”, Chapter VII Non-Citizens

Attached to this memorandum please find policy statement release(s) as described below:

SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL CH 331 PROPOSED Policy Changes #90P
Table of Contents
Introduction
Chapter II Eligibility Requirements (Non-Financial)—“Citizenship”
Chapter VII Non-Citizens

CONTENT: See attached memo.

COMMENT PERIOD: Consideration will be given to comments, suggestions and objections, which should be submitted to:

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TTY: (800)-606-0215 (Deaf/Hard of Hearing)

NO LATER THAN: 10/26/2012

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Program Administrators, Supervisors and Other Interested Parties

FROM: Dawn Mulcahey, TANF Program Manager

DATE: August 28, 2012

SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL CH 331, Policy #90P
Table of Contents, Introduction, Chapter II Eligibility Requirements (Non-Financial)—“Citizenship”, Chapter VII Non-Citizens

This is a PROPOSED Rule:

Unless specifically exempted, lawfully-admitted aliens who enter the United States on or after August 22, 1996 are subject to a five-year waiting period before receiving TANF benefits. The five-year waiting period begins on the date the alien gains qualified status. This rule defines the state-funded cash assistance benefits program for legal non-citizens who are elderly or disabled as defined in the laws governing Supplemental Security Income (SSI) under 42 U.S.C. §§ 1381 to 1383f (2010), asylum seekers, victims of domestic violence, and those who are experiencing a hardship, such as lack of time necessary to obtain proper work documentation. The Rule continues coverage for any household that is receiving state-funded cash assistance as of December 1, 2012 or that has an application pending as of December 1, 2012 that is later approved.

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On October 1, 1996, the Department of Health and Human Services submitted a State Plan to the Secretary of Health and Human Services to eliminate and replace its Aid for Families with Dependent Children Program with Temporary Assistance for Needy Families ("TANF") as authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Department will refer to its financial assistance programs under this Act as the Temporary Assistance for Needy Families and Parents as Scholars (PaS) programs. These programs provide assistance to families while parents prepare for, accept, and retain employment which supports them. The job preparation program is referred to as ASPIRE-TANF or ASPIRE-PaS.

Federal and State statutes provide the authority for TANF and PaS. Maine statutes place the responsibility for administering these programs with the Maine Department of Health and Human Services ("Department"). Within the Department, the program is administered by the Office for Family Independence (OFI).

The TANF and PaS programs are administered in a manner consistent with the objectives of the programs and respect the rights, privacy and personal dignity of the individual under the United States Constitution, the Social Security Act and the Civil Rights Act of 1964.

1. The TANF Program is a financial assistance program for needy families with dependent children who are deprived of parental support or care because of the death, continued absence, incapacity of a parent, or the under employment of a parent who is the principal wage earner.
2. The PaS Program is a student financial aid program based on need limited to 2000 parents who have dependent children deprived of parental support or care because of the death, continued absence, incapacity of a parent, or the under employment of a parent who is the principal wage earner. (Chapter X).

Families who are otherwise eligible for the TANF program who seek one-time, short-term assistance to obtain or retain employment may elect Alternative Aid Assistance instead of TANF. Alternative Aid Assistance is described in Chapter IX.

In addition to the basic TANF and PaS programs and the one-time, short-term Alternative Aid Assistance program, the Department administers a limited program of Emergency Assistance (EA), described in Chapter VIII.

Furthermore, the Department administers a Non-TANF Federal Funded Refugee Cash Assistance Program of up to eight (8) months of assistance. The determination of financial eligibility is modeled after the TANF Program. Eligibility criteria specific to RCA is described in Chapter VII.

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The Department also provides a state-funded cash assistance program for certain non-qualified aliens, as described in Chapter VII, which is modeled after the TANF program.

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All individuals have the right to apply for any assistance without regard to race, color, national origin, sex, gender orientation, religion, or handicap.

In accordance with the Americans with Disabilities Act, no qualified individual with a disability will, by reason of such disability, be excluded from participation or be denied the benefits of the services, programs or activities of the Maine Department of Health and Human Services, or be subjected to discrimination by the Maine Department of Health and Human Services.

Additionally, applicants and recipients are assured confidentiality, equitable and courteous treatment and may appeal decisions and have fair hearings should they disagree with any action taken affecting their benefit.

Furthermore, the Department will provide interpreters at no cost to non-English speaking individuals applying for or participating in Department Programs.

Assistance will not be given to a family that includes an adult who has received assistance for 60 or more months, whether or not consecutive, under any program funded with Federal Funds which are part of the TANF Block Grant, or under the state-funded cash assistance for certain non-citizens program defined in Chapter VII. In determining the number of months for which an individual who is a parent or pregnant woman has received assistance under a program funded under the TANF Block Grant or the state-funded cash assistance program, the Department will disregard any month for which assistance was provided with respect to the individual and during which the individual was: 1) a minor child and not the head of a household or married to the head of a household, 2) an adult who lived in Indian country during a month when at least 50% of the adults living on the reservation were unemployed, or 3) in a family receiving the enhanced earned income disregard. Extension of benefits beyond 60 months is explained in Chapter I, Time Limit.

The PaS Program is funded with the TANF Block Grant for twelve months of a recipient's participation. While Block Grant funded, the recipient is subject to the 60 month time limit.

After the 12 months of a recipient's participation in PaS, the program will be funded with State money and the participant will likewise be subject to the 60 month time limit.

An application for the TANF, PaS, RCA or Alternative Aid program is considered an application for medical assistance. Eligibility for Medicaid is determined separately.

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Overview of the Manual

This manual contains rules covering the eligibility requirements for the TANF, PaS, RCA Emergency Assistance and Alternative Aid Assistance programs, Transitional child care, and Transitional Transportation, and a state-funded cash assistance benefit program for certain non-qualified aliens.

TANF is the basic program. Chapters I through VI describe the basic program, eligibility criteria, the budgeting process, payment process, administrative hearings processes, and transitional services.

Chapter VII contains the specific rules for the Refugee Cash Assistance Program and for TANF Non-citizens. Chapter VII, pages 9-10 describes the state-funded cash assistance benefit program for certain non-qualified aliens.

Chapters VIII through X describe the Emergency Assistance, Alternative Aid Assistance and Parents for Scholars programs and the eligibility criteria specific to those special programs.

The Appendix contains charts referred to throughout the manual.

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Eligibility Requirements (non-Financial)**

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Reference111-2

CITIZENSHIP

GENERAL RULE: Federal law distinguishes non-citizens as “qualified” or “non-qualified” aliens. All TANF recipients must be U.S. citizens, or a “qualified alien” as defined in the provisions of § 431 of the PRWORA, as amended (8 U.S.C. § 1641), **The following groups are "qualified aliens."** All those not listed below are considered **"nonqualified:"** (For the State-funded cash assistance benefits program for certain non-qualified aliens, see Chapter VII, pages 9-11.)

NON-CITIZEN STATUS	NECESSARY CHARACTERISTICS AND CONDITIONS
1. Veterans or active duty personnel	<ul style="list-style-type: none"> • Lawfully residing in U.S.; and • A veteran of the U.S. Armed Forces with an honorable discharge or on active duty (not training) in the U.S. Armed Forces; or • Lawfully residing in the U.S. and a spouse or unmarried child of the veteran described above. “Unmarried child:” – child is or could be claimed as dependent on veteran’s tax return and meets MaineCare requirements for a dependent child.
2. Legal permanent resident	<ul style="list-style-type: none"> • Legal permanent resident (“LPR”) status granted under Immigration and Naturalization Act (“INA”), 8 U.S.C. § 1101 et seq. <p>Legal permanent residents are not eligible for full benefits if they have been in the U.S. fewer than five years. EXCEPTION: There is no five year waiting period if any of the following conditions applies:</p> <ul style="list-style-type: none"> • The individual’s date of entry to the U.S. is prior to August 22, 1996; • The individual is a child under the age of 21; • The individual is a pregnant woman; • Prior to adjustment to legal resident status regardless of the LPR status-granted date, the non-citizen’s status was Refugee under 8 U.S.C. § 1157, Asylee under 8 U.S.C. § 1158, Deportee (deportation withheld) under 8 U.S.C. § 12453, Amerasian immigrant (#10 of this chart), or Cuban/Haitian entrant (#11 of this chart). This non-citizen is eligible as a Refugee, Asylee, Deportee (deportation withheld), Amerasian immigrant, or Cuban/Haitian entrant (according to Medicaid State Plan).

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3. Refugee	<ul style="list-style-type: none"> Refugee status granted under § 207 of the INA
4. Asylee	<ul style="list-style-type: none"> Asylee status granted under § 208 of the INA
5. Deportation withheld	<ul style="list-style-type: none"> Deportee status (deportation withheld) granted under § 243(h) of the INA as in effect prior to April 1, 1997; or § 241(b)(3) of the INA, as amended
6. Parolee	<ul style="list-style-type: none"> Parolee status granted for at least a year under § 212(d)(5) of the INA. <p>Parolees are not eligible for full benefits if they have been in the U.S. fewer than five years.</p> <p>EXCEPTION: There is no five year waiting period if one of the following conditions applies:</p> <ul style="list-style-type: none"> The individual's date of entry to the U.S. is prior to August 22, 1996; The individual is a child under the age of 21; The individual is a pregnant woman
7. Conditional entrant	<ul style="list-style-type: none"> Conditional entrant status granted under § 203(a)(7) of the INA in effect before April 1, 1980 <p>Conditional entrants are not eligible for full benefits if they have been in the U.S. fewer than five years.</p> <p>EXCEPTION: There is no five year waiting period if one of the following conditions applies:</p> <ul style="list-style-type: none"> The individual's date of entry to the U.S. is prior to August 22, 1996; the individual is a child under the age of 21; the individual is a pregnant woman

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<p>8. Battered non-citizens</p> <p>OR</p> <p>Battered non-citizen's minor child</p>	<ul style="list-style-type: none"> • While lawfully residing in the U.S. the non-citizen or the minor child was battered or subjected to extreme cruelty by a spouse, a parent, or a member of the spouse's or parent's family residing in the same household as the non-citizen; and • Batterer no longer lives in same household; and • The non-citizen or the minor child meets the conditions set forth in § 431(c) of PRWORA as amended (8 U.S.C. §1641(c). <p>Battered Non-Citizens are not eligible for full benefits if they have been in the U.S. fewer than five years.</p> <p>EXCEPTION: There is no five year waiting period if one of the following conditions applies:</p> <ul style="list-style-type: none"> • The individual's date of entry to the U.S. is prior to August 22, 1996; • The individual is a child under the age of 21; • The individual is a pregnant women
<p>9. Trafficking victim</p>	<ul style="list-style-type: none"> • Aliens certified as a trafficking victim (TV) under § 107(b)(1) of the TV Protection Act of 2000, (P.L. 106-386).
<p>10. Amerasian</p>	<ul style="list-style-type: none"> • Admitted to the U.S. pursuant to § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (P.L. 100-202).
<p>11. Cuban and Haitian entrant</p>	<ul style="list-style-type: none"> • As defined in § 501(e) of the Refugee Education Assistance Act of 1980 (P.L. 96-422).

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12. American Indian born in Canada	<ul style="list-style-type: none">• The individual is at least one-half American Indian blood and provisions of § 289 of the INA apply
13. Native American who is a member of a federally- recognized Indian tribe	<ul style="list-style-type: none">• Member of an Indian tribe under 25 U.S.C. § 450b(e).
14. Iraqi Special Immigrant	<ul style="list-style-type: none">• Has same status as refugee, under 2009 Department of Defense bill (P.L. 111-118, § 8120(a)).
15. Afghani Special Immigrant	<ul style="list-style-type: none">• Has same status as refugee, under 2009 Department of Defense bill (P.L. 111-118, § 8120(b)).

NOTE: Aliens legally admitted on a temporary basis such as visitors, travelers, crewmen on shore leave, foreign students, and members of the foreign press, radio, etc. are not eligible for assistance, even if they have authorization to work.

NOTE: The five-year bar begins on the date the qualified alien obtained qualified status.

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CITIZENSHIP (Cont.)

Each member of a household applying for TANF and PaS must declare their citizenship or legal immigration status in writing. An adult household member can make this declaration for the entire household.

NOTE: States are required to report to Immigration and Naturalization Services an individual who the State knows is unlawfully in the U.S.

An individual must provide documentation from the United States Citizen and Immigration Services ("USCIS") to prove his or her immigration status.

If the individual fails to declare citizenship or legal immigration status, the individual will be ineligible for assistance. If the individual is the parent or a one-parent household, the individual is ineligible and the household is paid under a child-only standard. If the individual refuses to sign for a child, the child is ineligible. The child's income and assets are no longer considered available to the filing unit. The child is no longer considered a family member when determining the 185% income limit. The same is true for stepparents and other caretaker relatives unless they choose to be excluded. For grant calculation and special procedures, see Chapter III.

The Department will make all determinations as to eligibility, and its decisions are final subject to the fair hearing process outlines in Chapter VI.

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STATE-FUNDED CASH ASSISTANCE PROGRAM FOR NON-QUALIFIED ALIENS:

A non-qualified alien (as defined in Chapter II, p. 3) may receive benefits equivalent to the TANF program through a state-funded cash assistance program if that person:

1. Was receiving such assistance on December 1, 2012, or had an application pending for such assistance as of December 1, 2012
2. Is an Asylum Seeker ("AS") - defined by U.S. Citizenship and Immigration Services, ("USCIS") as a non-citizen who has arrived in the United States seeking Protection because they have suffered persecution or fear that they will suffer persecution due to:
 - Race
 - Religion
 - Nationality
 - Membership in a particular social group
 - Political opinion

The AS will file a form I 589, "Application for Asylum and for Withholding of Removal" with the appropriate USCIS center.

Verification: The AS will receive an I 797 receipt and approval notice from USCIS to confirm receipt of the asylum application. The AS will also receive a notice for an interview.

3. Is Elderly: as defined under the laws governing supplemental security income in 42 U.S.C. § 1382C (defined as "aged").
4. Is Disabled: as defined under the laws governing supplemental security income in 42 U.S.C. § 1382C.
5. Is a Victim of Domestic Violence: families in which abuse is currently being perpetrated or those who are dealing with the effects of victimization by domestic violence. This includes:
 - Physical acts/threats of physical injury
 - Sexual abuse of a child or caretaker of a child
 - Psychological effects of the abuse

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The individual must provide reasonable and verifiable written evidence of the abuse, including but not limited to:

- Immigration (including USCIS form I 797, notice of action, and I 918, for victims of qualifying criminal activity), court, medical, law enforcement, child protective, social services, psychological or other records that establish that the individual has been a victim of domestic violence
- Sworn statements from persons other than the individual with knowledge of the circumstances affecting the individual
- Acceptance of referral to and participation in a domestic violence program

6. Is suffering a Hardship: individuals who are subject to a waiting period to obtain proper work documentation may be eligible for benefits until they receive those documents. The individual must provide verification of the pending application and its status.

This state-funded cash assistance benefits program will be governed by the guidelines and procedures enumerated in the rules for the TANF program, as found in this manual.

State-funded cash assistance benefits will terminate under the conditions noted for the TANF program in Chapters I through VI, and also upon the following:

- a) For non-qualified aliens who do not otherwise meet the criteria for Federally-funded benefits, state-funded benefits will end when the household closes due to a change in eligibility factors such as income, assets, etc., or when the household qualifies for Federally-funded benefits.

EXCEPTION: for those who are eligible due to hardship pending work documentation, state-funded eligibility will end when work documents have been received from USCIS.

- b) For asylum seekers (including their children under 18 years old, if any), state-funded benefits will end when the household closes due to a change in eligibility factors such as income, assets, etc., or when the household qualifies for Federally-funded benefits.

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EXCEPTION: for those who are eligible due to hardship pending work documentation, state-funded eligibility will end when work documents have been received from USCIS.